

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition #: 88-015-02-1-5-00002
Petitioners: Joseph S. and Jacqueline A. Thomas
Respondent: Polk Township Assessor (Washington County)
Parcel: 0100015410
Assessment Year: 2002

The Indiana Board of Tax Review (the “Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioners initiated an assessment appeal with the Washington County Property Tax Assessment Board of Appeals (“PTABOA”) by written document dated April 13, 2004. *Board Ex. A.*
2. The PTABOA mailed its Form 115 Notification of Final Assessment Determination (“Form 115”) on July 30, 2004. *Id.*
3. The Petitioners filed a Form 131 Petition to the Indiana Board of Tax Review for Review of Assessment (“Form 131 Petition”) with the Washington County Assessor on November 16, 2004¹. *Id.* The Petitioners elected to have this case heard in small claims. *Id.*
4. The Board issued a notice of hearing to the parties dated August 10, 2005. *Board Ex. B.*
5. The Board held an administrative hearing on October 4, 2005, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - a) For Petitioners: Joseph S. Thomas, Owner
 - b) For Respondent: Eugene Trueblood, Washington County Assessor
Jim Davis, President, Washington County PTABOA
7. The subject property is located at 91007 Pine Hill Lot # 65, Pekin, Indiana. The subject property contains a residential mobile/modular home.

¹ The Form 131 Petition actually contains two different “received” stamps from the Washington County Assessor – November 16, 2004 and December 16, 2004. The Board bases its decision on the earlier of the two dates.

8. The Administrative Law Judge did not conduct an inspection of the property.

9. Assessed value of the subject property as determined by the PTABOA:

Land \$800	Improvements \$20,200	Total \$21,000
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10. Assessed value requested by the Petitioners on their Form 131 Petition:

Total: \$800

Record

11. The official record for this matter is made up of the following:

a) The Petition

b) The CD recording of the hearing

c) Exhibits:

Petitioners: No exhibits presented

Respondent Exhibit 1: Subject Property Record Card

Respondent Exhibit 2: Copies of Sales Disclosure Forms for the subject area of Pine Hills

Board Exhibit A: Form 131 Petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Notice of County Representation for hearing

Board Exhibit D: Sign In Sheet

d) These Findings and Conclusions

Timeliness of Petition

12. In order to obtain review by the Board of a county property tax assessment board of appeals' action with respect to tangible property, a taxpayer must file a petition for review with the appropriate county assessor "not later than thirty (30) days after notice of the county property tax assessment board of appeals action is given to the taxpayer." Ind. Code § 6-1.1-1-15-3(c).

13. On its face, the Form 115 issued by the PTABOA indicates that it was mailed to the Petitioners on July 30, 2004. *Board Ex. A*. The Petitioners did not file their Form 131 Petition asking the Board to review the final determination of the PTABOA until November 16, 2004 – 109 days after they were served with notice of the PTABOA's

determination. The Petitioners did not present any evidence to demonstrate that they did not receive the notice of the PTABOA's decision on or near July 30, 2004.

14. Based on the foregoing, the Board lacks jurisdiction over the Petitioners' appeal. The Board therefore dismisses the Petitioners' Form 131 Petition as untimely filed.
15. Although the Board does not reach the merits of the Petitioners' claims, it notes that the Petitioners failed to present sufficient evidence to establish a prima facie case of error.
 - a) The Petitioners contend that taxes on the subject property increased from \$161.16 to \$292.88 in three years. *J. Thomas testimony*. Each assessment and each tax year, however, stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property's assessment in one tax year is not probative of its true tax value in a different tax year. *See Id.*
 - b) The Petitioners also contend that the assessment is excessive because the subject property contains a 1950-model mobile home without heat and that plumbing was not installed until 2003. *J. Thomas testimony*. The PTABOA, however, changed the year of construction of the home from 1959 to 1950 and further changed the assessment to reflect the absence of heat or plumbing. *J. Davis testimony; Resp't Ex. 1.*
 - c) Mr. Thomas also testified that his neighbors told him that they are paying less in taxes than the Petitioners are paying. *J. Thomas testimony*. The Petitioners, however, did not provide any comparison of the characteristics of the subject property and those of the neighboring properties.

Conclusion

16. The Petitioners did not timely file their Form 131 Petition. The Board therefore dismisses their petition.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review hereby enters its order dismissing the Petitioners' Form 131 Petition to the Indiana Board of Tax Review for Review of Assessment.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial_proc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.